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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,519	01/31/2002	Troy Walters	5490-000269	3690

7590 08/24/2005

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EXAMINER

RAMANA, ANURADHA

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/066,519

Applicant(s)

WALTERS ET AL.

Examiner

Anu Ramana

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37 and 39-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/21/05.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 and 39-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US 5,266,075) in view of Howell et al. (US 5,674,224).

Clark et al. disclose utilizing a tendon threader or "insertion rod" 10 with a preloaded suture and tendon (16, 17) or "flexible strand" or "ligament" for replacement of a knee cruciate ligament, a "keyed" or "locking" portion 12 and a guide portion 13 on insertion rod 10 wherein a pin or "retaining member" 21 is placed transversely to the ligament tunnel 34 through the guide portion 13 of the insertion rod to retain the flexible strand in the first tunnel 34 (Figs 1 and 4-7, col. 1, lines 8-10, col. 2, lines 40-66, col. 4, lines 57-68, col. 5, lines 30-56 and col. 6, lines 1-27).

Clark et al. disclose all elements of the claimed invention except for operably connecting an external guide member defining a guide section with the insertion rod and aligning a tunnel-forming device with guide portion 13 of the insertion rod utilizing the guide section of the external guide member for inserting pin 21.

Howell et al. teach a drill guide or "guide system" 94 having an external guide portion or "guide member" 114, the guide member having a passage or guide section 112 wherein system 94 has a receptacle or "keyed" or "locking" portion 104 for receiving an insertion rod for the purpose of placement of a screw or "pin" 42 through a bone at a position determined by the insertion rod (Figs. 8 and 12, col. 5, lines 54-67, col. 6, lines 1-67 and col. 7, lines 1-4).

Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a drill system 94, as taught by Howell et

al., with the Clark et al. insertion rod 10 for the purpose of placement of pin 21 during replacement of a knee cruciate ligament.

The method steps of claims 37 and 39-46 are rendered obvious by the above discussion.

### ***Response to Arguments***

Applicant's arguments submitted under "REMARKS" in the response filed on January 21, 2005 have been fully considered but are not persuasive for the following reasons.

Clark et al. disclose inserting an insertion rod wherein a flexible strand is preloaded on a guide portion of the insertion rod and inserted through a bone tunnel wherein a pin is placed transversely to the bone tunnel to secure the ligament in the bone tunnel. Howell et al. teach operably interconnecting an insertion rod with an external guide member defining a guide section for placement of a screw or a pin at a location determined by the insertion rod. One of ordinary skill in the art would have utilized a guide member with a guide section operably connected to the insertion rod of Clark et al. for the purpose of placing pin 21 at a location determined by the insertion rod, namely, the guide portion 13.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR *Anu Ramana*  
August 21, 2005

  
**EDUARDO C. ROBERT**  
PRIMARY EXAMINER